

BOISE, FRIDAY, MAY 11, 2012 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**DANIEL S. FUCHS, dba AUBREY'S)
HOUSE OF ALE,)**

Petitioner-Appellant,)

v.)

**IDAHO STATE POLICE, ALCOHOL)
BEVERAGE CONTROL,)**

Respondent.)

Docket No. 38714

Appeal from the District Court of the First Judicial District, State of Idaho,
Kootenai County. Hon. Lansing L. Haynes, District Judge.

Brian N. Donesley, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General, Boise, for respondent.

Appellant Daniel S. Fuchs (Fuchs) appeals the district court decision on judicial review affirming the final order from the Director of the Idaho State Police, Alcohol Beverage Control (ABC). ABC had filed a complaint seeking the forfeiture or revocation of Fuchs's retail alcohol beverage license. The original hearing officer found that Fuchs met the requirement for "actual sales" for new licensees of Idaho Code 23-908(4) and IDAPA Rule 11.05.01.010.03 because Fuchs had made sales during the time that he was in operation for eight hours per day, six days per week. On appeal by ABC, the Director found that the requirement for "actual sales" was ambiguous and interpreted the rule to require a sale every day of operation. The Director also found that Fuchs had violated the rule, but chose not to revoke his license because of the confusion caused by the ambiguity. Also, the Director found that neither party was entitled to attorney fees as neither was the prevailing party in the action. Fuchs appeals to the Supreme Court, arguing that he is the prevailing party because the final result of the action was not the revocation of his license. He also argues for the purposes of attorney fees that the Director did not act with a reasonable basis in fact or law because of the different interpretations of the rule used by ABC.

BOISE, FRIDAY, MAY 11, 2012, AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

GAYLEN CLAYSON,

Plaintiff-Counterdefendant-Respondent,

V.

DON ZEBE, RICK LAWSON, LAZE, LLC,

Defendants-Counterclaimants-Appellants.

Docket No. 38471

Appeal from the District Court of the Sixth Judicial District, State of Idaho,
Bannock County. Hon. Stephen S. Dunn, District Judge.

Cooper & Larsen, Pocatello, for appellants.

Atkin Law Offices, P.C., Bountiful, Utah, for respondent.

This appeal arises from Gaylen Clayson's attempt to purchase a restaurant and cheese factory in Thayne, Wyoming. Prior to making a formal offer on the property, Clayson was granted access in order to begin operating the restaurant and refurbishing the factory. Clayson's effort to purchase the subject property ultimately failed, and Don Zebe and Rick Lawson subsequently purchased the property. Clayson then filed a breach of contract action against Zebe and Lawson, alleging the existence of both express and implied contracts entitling Clayson to compensation for the pre-purchase work Clayson had performed on the property. After a bench trial, the district court found that there was no express contract between the parties. However, the district court determined that the parties' conduct created both implied-in-fact and implied-in-law contracts, which required Zebe and Lawson to reimburse Clayson \$97,310.94 for costs he incurred while working on the subject property.

Zebe and Lawson appeal, arguing that the district court erred because Zebe and Lawson did not request Clayson's performance nor receive any benefit as a result of Clayson's work on the property. Zebe and Lawson ask this Court to vacate the judgment in favor of Clayson and remand the matter for entry of judgment in their favor.

BOISE, FRIDAY, MAY 11, 2012, AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**KRYSTAL M. KINGHORN, f/k/a KRYSTAL)
M. BARRETT,)**

Plaintiff-Respondent,)

v.)

KELLY N. CLAY, an individual,)

Defendant-Cross Defendant-Appellant,)

and)

BRP, INCORPORATED,)

Defendant-Cross Claimant-Respondent,)

and)

BANK OF COMMERCE,)

Defendant.)

Docket No. 38109

Appeal from the District Court of the Seventh Judicial District, State of
Idaho, Fremont County. Hon. Jon J. Shindurling, District Judge.

Smith, Driscoll & Associates, PLLC, Idaho Falls, for appellant.

Stoel Rives, LLP, Boise, for respondent BRP Incorporated.

This case involves both the validity, and the order of priority, of a writ of attachment and
an attorney's charging lien.